

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Randa Helmberger and
John Helmberger,

Case No. _____

Plaintiffs,

NOTICE OF REMOVAL

vs.

Michaels Stores, Inc., Vanbarton Group,
LLC, and Vanbarton Services MN, LLC,

Defendants.

Defendant Michaels Stores, Inc., by and through its undersigned counsel, as and for its Notice of Removal of an action venued in the Second Judicial District Court, Ramsey County, Minnesota to the United States District Court, District of Minnesota, states:

REMOVAL IS TIMELY

1. On May 17, 2021, through service of a Summons and Complaint, Plaintiffs Randa Helmberger and John Helmberger (“Plaintiffs”) commenced an action against Michaels Stores, Inc., in the Second Judicial District Court, Ramsey County, Minnesota. A true and correct copy of the Summons and Complaint is attached as Exhibit 1.

2. This Notice of Removal is therefore timely pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of the date that Michaels Stores, Inc. was served with the Summons and Complaint.

REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

The Amount in Controversy Exceeds \$75,000

3. In the Complaint, Plaintiffs allege each of them have been “damaged and injured in an amount greater than \$50,000.00.” [Ex. 1, Compl., ¶¶ 26, 27.]

4. Plaintiff Randa Helmberger alleges she has “in the past and will in the future incur medical and hospital expenses for the treatment of her injuries; has in the past and will in the future incur a loss of earnings and earning capacity; has in the past and will in the future suffer great physical and mental pain.” [Ex. 1, Compl., ¶¶ 23, 24, 25.]

5. Plaintiff John Helmberger alleges he has “in the past and will in the future be deprived of Randa’s services, society, and companionship.” [Ex. 1, Compl., ¶ 27.]

6. Upon information and belief, Plaintiffs are claiming damages that exceed \$75,000.

The State Court Action Is Between Citizens of Different States

7. Upon information and belief, Plaintiffs are Minnesota residents.

8. Michaels Stores, Inc. is incorporated in Delaware and maintains its principle place of business in Texas. Accordingly, Michaels Stores, Inc. is a citizen of Delaware and Texas, and is not a citizen of Minnesota.

9. Upon information and belief, Defendant Vanbarton Services MN, LLC is a Delaware limited liability company.

10. Upon information and belief, Defendant Vanbarton Group, LLC is a Delaware limited liability company.

Diversity Jurisdiction Exists

11. As set forth in Paragraphs 7 through 10 above, this Court has diversity jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1332, and the action that Plaintiffs served in State Court is properly removable under 28 U.S.C. § 1441.

DEFENDANT HAS COMPLIED WITH THE REMOVAL PROCEDURES

12. As required by 28 U.S.C. § 1446(a), Michaels Stores, Inc. has attached as Exhibit 1 to this Notice of Removal a copy of all process, pleadings and orders served upon it relating to the State Court action.

13. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be served upon Plaintiffs, by and through their counsel of record, and with the Clerk of the Second Judicial District Court, Ramsey County, Minnesota, the State Court under which Plaintiffs initially commenced an action against Michaels Stores, Inc.

DEFENDANT PRESERVES ALL DEFENSES

14. The Answer of Michaels Stores, Inc., or other response to the Complaint was not due prior to filing this Notice of Removal. By filing this Notice of Removal, Michaels Stores, Inc., does not waive any defense or counterclaim that may be available to it including jurisdictional defenses. As required under Fed. R. Civ. P. 81(c)(2), Michaels Stores, Inc. will respond to the Complaint within the time set forth therein, unless an extension of the deadline is properly obtained pursuant this Court's approval.

WHEREFORE, Michaels Stores, Inc., respectfully removes the above-referenced cause of action from the Second Judicial District Court, Ramsey County, Minnesota to the

United States District Court of Minnesota, submits that no further proceedings be had in Minnesota State Court, and requests such other and further relief as is necessary and proper.

Dated: June 8, 2021

/s/ Kaylin C. Schmidt

Mark A. Solheim (#0213226)

Kaylin C. Schmidt (#0397608)

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